



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 4176-00
5 October 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting a change in the reenlistment code assigned on 8 October 1997.

2. The Board, consisting of Mr. Mazza, Ms Hare and Ms. Madison, reviewed Petitioner's allegations of error and injustice on 26 September 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Naval Reserve on 14 September 1994 at age 18. The record shows that he satisfactorily completed recruit training and reported to a reserve unit. On 16 August 1996 he was advanced to SN (E-3). In the performance evaluation for the period 16 July 1996 to 15 January 1997, his individual trait average (ITA) was 3.17 and he was recommended for advancement and retention. On 8 August 1997 the Bureau of Medicine and Surgery found him not physically qualified for retention due to attention deficit disorder currently under treatment. In the performance evaluation for the period 15 July to 7 October 1997, the ITA is 3.33 and he was recommended for advancement and retention. There is an administrative remarks (page 13) entry, dated 8 October 1997 which indicates that he was issued an honorable discharge by reason of physical disability

and was assigned an RE-4 reenlistment code. However, the Record of Discharge From the U. S. Naval Reserve (Page 15) which forwarded his honorable discharge certificate states that he is recommended for reenlistment.

d. Subsequently, Petitioner applied for reenlistment. On 27 March 2000, BUMED stated, in part, as follows:

Based on a review of the available medical information subject applicant DOES NOT meet established physical standards due to a history of asthma, attention deficit disorder.

... A waiver of the physical standards IS recommended.

On 27 March 2000 the Commander Navy Recruiting Command approved the waiver recommendation.

e. Concerning the page 13 entry of 8 October 1997, the Officer in Charge of the Personnel Support Detachment stated on 23 May 2000, in part, as follows:

(The page 13) is incorrect and was completed in error. Selected reservists are not assigned RE-Codes like active duty personnel, however, a correct RE-code would have reflected an RE-3P vice 4. ... (he) is recommended for reenlistment.

f. The examiner assigned to the case was requested to expedite the case because Petitioner's request for reenlistment was still being denied because of the RE-4 reenlistment code. The examiner informed all concerned that since the RE-4 reenlistment code was obviously in error, the record should be either corrected administratively without Board action or the recruiting command should simply recognize the error and drop the RE-4 code from the reenlistment determination. On 25 September 2000 the Board received a fax from the Navy Recruiting District in Atlanta which states, in part, as follows:

(Petitioner) began processing for reenlistment into the Navy with a BUMED approval for waiver of his prior medical condition in March 2000. However, an RE-4 code on his separation documents halted this processing in April 2000 and we began to research what (he) claimed was an erroneous RE-code assignment.

We received all documentation concerning assignment of this RE code as well as a May 2000 letter from CO, Naval Reserve Center Charleston, stating that the code was an administrative error. All of this information

was forwarded to CNRC Code 35 in request for a RE Code waiver. Code 35 responded that no waiver consideration was being given by PERS for any RE-4 Code waivers. I was advised that (Petitioner) would have to submit a request to BCNR in order to have the RE code changed and to complete his reenlistment processing. ...

... Request (his) package be boarded by your office and correction be made to his RE code for separation in October 1997 so that (he) may qualify to reenlist in the U. S. Navy.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board continues to believe that this case should have been resolved at a lower level. However, since Petitioner is being denied reenlistment through no fault of his own, the Board believes that corrective action is now warranted. Since an obvious error occurred and a reenlistment code should not have been assigned, the Board concludes that the record should be corrected wherever necessary by deleting any reference to the RE-4 code. As indicated, even if a reenlistment code is necessary for consideration of this case then it should be an RE-3P code. The Board notes that this individual should not be reenlisted unless he is otherwise qualified.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected wherever necessary to show that on 8 October 1997 he was recommended for reenlistment. This should include but not necessarily be limited to removal of the RE-4 reenlistment code from the page 13 entry of 8 October 1997.
- b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
- c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

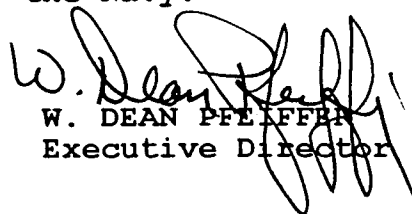
complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director